

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 17-64 (DWF/KMM)

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
EDWARD S. ADAMS,) **JOINT MOTION TO**
) **CONTINUE TRIAL**
)
Defendant.)

The United States and Edward S. Adams, through their respective and undersigned counsel, hereby respectfully request a continuance of the currently scheduled trial in this case until October 2019.

The trial in this case is currently set for January 28, 2019. As the Court is well aware, until just recently, the parties have been engaged in extensive pre-trial litigation that began on September 28, 2017. That pre-trial litigation concerned the government's execution of a search warrant and whether evidence seized pursuant to that search warrant should be suppressed, or the case dismissed or the prosecution team disqualified, due to alleged constitutional violations and alleged government misconduct in viewing communications claimed by Mr. Adams to be privileged. Given the nature of the allegations of misconduct and Mr. Adams's claims of privilege violations, the government has refrained since August 2017 from accessing the Relativity database that houses the approximately 42,000 emails that were the subject of the pre-trial litigation. Among those 42,000 emails, approximately 35,000 have not previously been reviewed by the prosecution team. With respect to the 35,000 emails, counsel for the defendant has

informed the government that they believe that there may be a significant number of privileged communications therein and that appropriate measures must be taken to prevent disclosure of those privileged communications. Counsel for the government agrees that implementing measures to prevent disclosure of privileged communications is appropriate. Accordingly, the parties are working toward establishing a mutually agreeable set of measures to ensure that any remaining privileged communications within the 35,000 emails are removed from the database.

The government submits that it cannot realistically complete any meaningful review of the 42,000 emails in time for a trial date of January 28, 2019. The sheer volume of emails—42,000—by itself makes any meaningful review within that time period infeasible. In addition, the parties must agree on a set of measures to prevent disclosure of privileged communications, and the government must then employ those measures before resuming its access to the database of 42,000 emails. Finally, all of the above must take place while simultaneously preparing for a January 28, 2019 trial, including meeting with witnesses, a large number of whom are located outside Minnesota. Accordingly, a continuance of the trial is necessary to permit the government sufficient time to finalize and implement measures to prevent disclosure of privileged communications that exist within the 42,000 emails, complete a meaningful review of the emails that remain after any privileged communications have been removed, and complete preparations for trial.

Although a continuance of a couple of months would be provide enough additional time, the parties respectfully request a longer continuance, until October 21, 2019, or as soon thereafter as is convenient for the Court. One of the lead attorneys for Mr. Adams

will be on maternity leave and therefore will be unavailable to prepare for and participate in a trial here in Minnesota during the spring and summer months. Accordingly, the parties request that the Court set the trial in this case for October 21, 2019, or as soon thereafter as is convenient for the Court.

The parties respectfully submits that granting the requested continuance would serve the ends of justice and outweigh the best interests of the public and the defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A) and (B). Importantly, no time has yet elapsed under the Speedy Trial Act because the Court previously granted requests to exclude time under the Speedy Trial Act from March 31, 2017 (the date of arraignment) through October 9, 2018, (*see* February 13, 2017 Order [Docket No. 108]), and from October 9, 2018, through January 28, 2019, (*see* July 6th, 2018 Order [Docket No. 169]). Concurrent with the filing of this joint motion, Mr. Adams will be submitting a new statement of facts requesting that the period of time from the date of this motion through the new trial date requested by the parties, October 21, 2019, also be excluded from the Speedy Trial Act. Therefore, the continuance sought by the parties will not result in any violation of the Speedy Trial Act.

For all the reasons stated above, the parties respectfully request a continuance of the trial date until October 21 2019, or as soon thereafter as is convenient for the Court. The parties also request that the deadline for the filing of all trial documents be reset to a date approximately two weeks prior to the trial date.

Respectfully Submitted,

Dated: December 17, 2018

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s/ John Kokkinen

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